

## MEETING #23 - June 6

At a Joint Meeting of the Madison County Board of Supervisors on June 6, 2018 at 7:00 p.m. in the Madison County Administrative Center Auditorium located at 414 N. Main Street:

PRESENT: R. Clay Jackson, Chairman  
Jonathon Weakley, Vice-Chairman  
Kevin McGhee, Member  
Charlotte Hoffman, Member  
Amber Foster, Member  
Jack Hobbs, County Administrator  
Sean Gregg, Interim County Attorney  
[REDACTED] Carol Davis, Assistant Zoning Administrator

ABSENT:

### Planning Commission:

#### Call to Order

Mr. Yowell, Commission Chair, advised that tonight's session will call for the Commission to go into a slight recess prior to Item 5 in order to allow the Board of Supervisors to rule on cases.

### *Pledge of Allegiance & Moment of Silence*

#### 1. Determination of a Quorum

Mr. Yowell, Commission Chair, noted that a Quorum was present.

#### 2. Approval of Minutes

The minutes of the May 2, 2018 meeting were approved as presented.

#### 3. Action Items:

Mr. Yowell provided an overview of tonight's meeting process. Representatives were asked to approach the podium to provide their name and any information pertinent to tonight's case; questions will be entertained by the Commission members, the public, and then the case will be recommended onto the Madison County Board of Supervisors either for approval, denial or tabling. In closing, he asked that applicants remain for the Madison County Board of Supervisors portion of tonight's meeting.

- 46-103 and 102 a. Case No. S-06-18-05: Request by Everett D. & Deborah Meares Millais Trustees of the Millais Family Trust for a plat of a subdivision of land to create one (1) lot with residue. The residue and the lot will be served by a new 50-foot right-of-way. The 50-foot right-of-way

also serves Tax Map Number 46-102 owned by Patricia Aileen Tompkins. These properties are located off Route 230 (Wolfstown-Hood Road) near Wolfstown, zoned A-1. (Pending a variance request for setbacks for the existing house, shed and barn on Tax Map Number 46-102 owned by Patricia Aileen Tompkins). The final plat has been approved by VDOT and the Madison Health Department.

Everett Millais, applicant, was present and advised that he and his wife (Deborah) own the property being discussed. A letter has been submitted with the application to explain today's request. There are currently two (2) houses on the piece of property, and (due to family reasons) the desire is to sell the property by each lot. All structures on the property and neighboring property are owned by his sister (Patricia Aileen Tompkins), and nothing has been changed since the application and request was submitted. Both properties (Tompkins & Millais) are covered by a land-trust, conservation easement within the State of Virginia, which requires that there be no more than three (3) houses on the two (2) properties, and no more than three (3) lots; the existing shed that is shown on the property has now been demolished. The requested variance is needed (on his sister's property) because the existing house has been in place since the civil war era; the desire is to shift the easement in order to meet the County's setback requirements.

Mr. Yowell, Chair, opened the floor for comments from the public, and then to the Commission.

After discussion, the Madison County Planning Commission recommended that Case S-06-18-04, be presented to the Madison County Board of Supervisors for approval, pending approval of the variance request by the BZA.

15-19      *b. Case No. Z-06-18-06: Request by Richard R. & Lucy J. Hastings co-Trustees of The Old Rag Living Trust to rezone 2.000 acres from Conditional Business, B-1 to Business, B-1 (if approved, there would be no proffers attached to this application, it would be straight Business, B-1 zoning.) This property was originally rezoned to Conditional Business, B-1 on August 14, 2001 and was amended on December 6, 2006. This property is located at 5349 South F. T. Valley Road (Route 231) and contains 2.000 acres of land (lot of record in 1949) at Etlan. A letter was received from VDOT to state there are no comments or issues with the proposed request. The Madison Health Department has certified that the current system is adequate for the proposed usage, as noted on 6/6/18.*

Lucy J. Hastings, applicant was present and advised that the request is being proposed in order for her to utilize the business portion of the property, and maintain the residential portion on the property.

Mr. Yowell, Chair, opened the floor for comments from the Commission and the public.

After discussion, the Madison County Planning Commission recommended that Case No. Z-06-18-06 be presented to the Madison County Board of Supervisors for approval.

- 15-19                      c. Case No. SU-06-18-07: Request by Richard R. & Lucy J. Hastings co-Trustees of The Old Rag Living Trust for an indefinite special use permit to allow the existing apartment located in the main business structure as a secondary use to be lived in by an owner, caretaker or tenant. This property is located at 5349 South F. T. Valley Road (Route 231) and contains 2.000 acres of land at Etlan, currently zoned Conditional Business, B-1. (Pending the above request for rezoning.)

Lucy J. Hastings, applicant was present and advised that since the inception of the existing apartment, the prior rezoning, there was some neglect in the language (i.e. conditions) to allow the proposed request.

Mr. Yowell, Chair, opened the floor to the public and then to the Commission.

After discussion, the Madison County Planning Commission recommended that Case SU-06-18-07 be recommended to the Madison County Board of Supervisors for approval.

4. Revised site plan pages Z-2, ES-1 and ES-2 for Shentel (Shenandoah Telecommunications Company) on David Warren & Louise Leigh Smith property at Hood for proposed 199' monopole style telecommunications tower: Mr. Yowell, Chair, advised that the recent workshop session, the Commission discussed getting the new site plan on the road (i.e. Shentel Communications, Inc.), and asked if all members had an opportunity to review the document.

- ✓ Pete Elliott, Commission member, questioned:
  - a. If the road is a farm road or a dedicated entrance (from VDOT)
  - b. If the road is a farm road (with a right-of-way) [i.e. any new use will require VDOT approval]
  - c. If the request is approved for the cell tower, will the entrance be later used for development of the proposed property

Carol Davis, Assistant Zoning Administrator, was present and referred to the aforementioned question regarding the nature of the roadway. In closing, it was noted that the original site plan should've had VDOT approval.

Further discussions focused on the fact that:

- ✓ The original site plan was changed
- ✓ The original site plan was done through the church

Sean Gregg, Interim County Attorney, was present and advised that if the deed was transferred (regarding the property), then everything related to the original property was also transferred.

Mr. Yowell, Chair, suggested that discussion on this matter be tabled until the next workshop scheduled workshop session scheduled for June 20th at 7:00 p.m.

It was further questioned if the applicant should be responsible for providing documentation that denotes VDOT approval of the request.

After discussion, the Interim County Attorney was asked to research the above referenced item.

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Mr. Yowell, Chair, called for the Madison County Planning Commission to move into a brief recess until the Madison County Board of Supervisors acts on tonight's cases

*Mr. Yowell, Chair, reconvened the Madison County Planning Commission.*

#### **5. Review Section 20-203A, Definition of Use, Seasonal or Brief, Recommendation on the amendment or repeal or that portion of the Zoning Ordinance:**

Mr. Yowell, Chair, referred to Section 20-203A, Definition of Use, Seasonal or Brief, as it appears within the County's Zoning Ordinance. This matter was discussed in November 2017 with no recommendations for change being made at that time. The Madison County Board of Supervisors has decided to revisit this matter. Therefore, he questioned if:

- ✚ There is a problem with the number of days noted

- ✚ There is a problem with the zone as described;

or:

- ✚ Are there concerns with both aforementioned items

It was noted that Sean Gregg, Interim County Attorney, has proposed an amendment that would read as follows:

*Use, seasonal or brief: A use or activity that occurs for a brief time, or that occurs at a seasonal time and then ceases, including, by way of example, private auctions, land sales, yard sales, tent sale events, religious revivals, horse shows, or other activities not otherwise specifically prohibited by this zoning ordinance shall be permitted by right for a cumulative total of 17 days per calendar year, without the need to apply for a special use permit.*

The Interim County Attorney explained that the reason for seventeen (17) days being denoted is due to the fact that some events require the allowance of additional days necessary to accomplish set-up and break-down of the event (i.e. inspections, etc.).

- *Chairman Jackson:* Referred to the fact that any proposed changes to the above referenced use will not affect any existing businesses that are 'grandfathered'; verbalized disfavor of the language contained in the existing ordinance (i.e. specified use makes the zoning irrelevant)
- *Supervisor Weakley:* Referred to the fact the proposed language was well intended; suggested that more focus

*be made with reference to proposed business(s) and future plans.*

After discussion, Mr. Yowell, Chair, advised that the Commission will continue its discussion at the June workshop session on amending the seasonal or brief language noted in the County's Ordinance.

Comments from the Commission members focused on:

- *How the County will be aware of 'grandfathered' businesses (i.e. no business license in place)*
- *Definition should be included in the actual Zoning Ordinance (not separately)*

Bill Campbell came forward to question the timing of the discussion on amending the seasonal or brief use ordinance.

Mr. Yowell, Chair, advised that no recommendation(s) are being made to the Madison County Board of Supervisors at this time. This matter will be discussed further at the Commission's workshop session.

## **6. Adjournment:**

With no further action being required, Mr. Yowell, Chair, adjourned the Madison County Planning Commission portion of tonight's meeting session.

## **Board of Supervisors:**

### **Call to order**

Chairman Jackson called the Board of Supervisors' portion of tonight's meeting to order.

### **1. Determine Presence of a Quorum**

All members are present. A quorum was established.

### **2. Adoption of Agenda**

Chairman Jackson called for additions and/or adoption of tonight's agenda.

Supervisor Foster moved that the Board adopt tonight's Agenda as presented, seconded by Supervisor Hoffman.

*Aye: Jackson, Weakley, McGhee, Foster. Nay: (0). Absent: Hoffman.*

### **3. Action Items:**

*46-103 and 102: a. Case No. S-06-18-05: Request by Everett D. & Deborah Meares Millais Trustees of the Millais Family Trust for a subdivision.....*

- *Supervisor McGhee: Questioned clarification on the easement*

Mr. Millais, applicant, advised that the easement applies to the proposed lot residue (to include the Tompkins' property).

Supervisor McGhee moved that Case No. S-06-18-05 be approved as recommended by the Madison County Planning Commission, contingent upon approval of the proposed variance request (by the BZA), seconded by Supervisor Foster. *Aye: Jackson, Weakley, McGhee, Foster. Nay: (0). Absent: Hoffman*

15-19: *b. Case No. Z-06-18-06: Request by Richard R. & Lucy J. Hastings, co-Trustees of The Old Rag Living Trust to rezone 2.000 acres.....*

Supervisor McGhee: Referred to past issues with VDOT concerning access and questioned if this issue was resolved.

Chairman Jackson: Noted that today's proposal should eliminate any past issues

Supervisor Foster moved that Case No. Z-06-18-06 be approved as recommended by the Madison County Planning Commission, seconded by Supervisor Foster. *Aye: Jackson, Weakley, McGhee, Hoffman, Foster. Nay: (0).*

15-19 *c. Case No. SU-06-18-07: Request by Richard R. & Lucy J. Hastings co-Trustees of The Old Rag Living Trust for an indefinite special use permit.....*

Supervisor McGhee moved that Case No. SU-06-18-07 be approved as recommended by the Madison County Planning Commission, seconded by Supervisor Weakley. *Aye: Jackson, Weakley, McGhee, Hoffman, Foster. Nay: (0).*

**The Madison County Board of Supervisors portion of tonight's session was moved to a brief recess while the Madison County Planning Commission's portion of tonight's session was reconvened**

The Madison County Board of Supervisors reconvened:

**Partnership with Huelben, Germany**

Supervisor Hoffman advised that a report was received from Mr. John Underwood to advise that a delegation from Huelben, Germany is scheduled to be in Madison County on November 8th and will depart on November 12th.

**4. Resolution for Declaration of a Local Emergency**

Chairman Jackson called for the ratification of the recent Declaration of a Local Emergency:

**A RESOLUTION CONFIRMING A DECLARATION OF A LOCAL EMERGENCY**

**WHEREAS**, on May 31, 2018 Madison County was subjected to heavy rainfall and increasingly dangerous highwater conditions that made areas of the County inaccessible and caused damage to travel

infrastructure, and

**WHEREAS,** Chairman Clay Jackson, acting as the Director of Emergency Management, declared a local emergency in performance of his duty as the Director of Emergency Management on that day pursuant to §44-146.21 of the Code of Virginia, and

**WHEREAS,** that declaration was declared to have ended as of Noon on June 5, 2018, and

**WHEREAS,** due to exigent circumstances the Madison County Board of Supervisors was unable to convene to give its consent to the declaration as required by the Code of Virginia, and

**WHEREAS,** the Code of Virginia requires the Madison County Board of Supervisors to confirm such a declaration at its next regular meeting or at a special meeting within 45 days of the declaration, whichever occurs first,

**NOW, THEREFORE, IT IS RESOLVED** that the May 31, 2018 declaration that a local emergency existed in Madison County by the Director of Emergency Management is hereby ratified.

Adopted on [June 6, 2018](#), on motion of Supervisor Hoffman, seconded by Supervisor Weakley.

Chairman Jackson expressed his appreciation for everyone who responded and helped out with the flood and associated search and rescue efforts during the prior week with a special mention to the time and effort put forth by Brian Gordon, Director of Emergency Communications, along with John Scherer, Emergency Management Coordinator.

*Aye: Jackson, Weakley, McGhee, Hoffman, Foster. Nay: (0).*

## 5. Closed Session [2.2-3711(A)(1)]

**a. Closed Session:** On motion of Supervisor Weakley, seconded by Supervisor Hoffman, the Board convened in a closed session pursuant to Virginia Code Section 2.2-3711(A)(1) for discussion on the assignment, appointment, promotion, performance, demotion, disciplining or resignation of a specific Board-appointed member of the Rappahannock Rapidan Community Services Board. *Aye: Jackson, Weakley, McGhee, Hoffman, Foster. Nay: (0).*

### **b. Motion to Reconvene in Open Session:**

On motion of Supervisor Weakley, seconded by Supervisor Hoffman, the Board reconvened in open session, with the following vote recorded: *Aye: Jackson, Weakley, McGhee, Hoffman, Foster. Nay: (0).*

### **c. Motion to Certify Compliance:**

On motion of Supervisor Weakley, seconded by Supervisor Hoffman, it was moved to certify that by roll-call vote, that only matters lawfully exempted from open meeting requirements pursuant to Virginia Code Section 2.2-3711(A)(1), only matters that were identified in the motion to convene in a closed session were heard, discussed or considered in the closed meeting. *Aye: Jackson, Weakley, McGhee, Hoffman, Foster. Nay: (0).*

*As a result of closed session:*

Supervisor Weakley moved following the non-appearance by Mr. Legge to the invitation to appear before the Board to be heard, that the Board validate its decision to terminate Robert Legge as stated in its letter of May 24, 2018, for cause as a County appointee to the Rappahannock Rapidan Community Services Board, seconded by Supervisor Hoffman. *Aye: Jackson, Weakley, McGhee, Hoffman, Foster. Nay: (0).*

Supervisor Weakley amended his motion to state that following the non-appearance of Mr. Legge to the invitation to appear before the Board to be heard, that the Board *ratify* its decision to ratify its decision to terminate Robert Legge as stated in its letter of May 24, 2018, for cause as a County appointee to the Rappahannock Rapidan Community Services Board, seconded by Supervisor Hoffman. *Aye: Jackson, Weakley, McGhee, Hoffman, Foster. Nay:(0).*

Supervisor Foster moved that the Board appoint Valerie Ward to the Rappahannock Rapidan Community Services Board for a term that would expire on December 31, 2018, seconded by Supervisor Hoffman. Aye: Jackson, Weakley, McGhee, Hoffman, Foster. Nay: (0).

**6. Adjournment**

With no further action being required, on motion of Supervisor Hoffman, seconded by Supervisor Weakley, seconded by Supervisor McGhee, Chairman Jackson adjourned tonight's meeting.

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R. Clay Jackson, Chairman  
Madison County Board of Supervisors

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Clark of the Board of the Madison County Board of Supervisors  
Adopted on: June 12, 2018  
Copies: Board of Supervisors, County Attorney & Constitutional Officers

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**Agenda**  
**Joint Meeting**  
**Madison County Planning Commission &**  
**Madison County Board of Supervisors**  
**Wednesday, June 6, 2018 at 7:00 P. M.**  
**County Administration Building Auditorium**  
**414 N. Main Street, Madison, Virginia 22727**

**Planning Commission**

Call to Order

***Pledge of Allegiance & Moment of Silence***

1. Determine Presence of a Quorum
2. Approval of Minutes
3. Action Items:

46-103 & 102 a. Case No. S-06-18-05: Request Everett D. & Deborah Meares Millais Trustees of the Millais Family Trust for a plat of a subdivision of land to create one (1) lot with residue. The residue and the lot will be served by a new 50- foot right-of-way. The 50-foot right-of-way also serves Tax Map Number 460-102 owned by Patricia Aileen Tompkins. These properties are located off Route 230 (Wolftown-Hood Road) near Wolftown, zoned A-1. (Pending a variance request for setbacks for the existing house, shed and barn on Tax Map Number 46-102 owned by Patricia Aileen Tompkins).

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4. Revised site plan pages Z-1, ES-1 and ES-2 for Shentel (Shenandoah Telecommunications Company) on David Warren & Louise Leigh Smith property at Hood for proposed 199' monopole style telecommunications tower.

5. Review 20-203A, Definition of Use, Seasonal or Brief. Recommendation on the amendment or repeal of that portion of the Zoning Ordinance.

6. Adjournment

**Board of Supervisors**

Call to Order

1. Determine Presence of a Quorum
2. Adoption of Agenda
3. Action Items

46-103 & 102: a. Case No. S-06-18-05: Request by Everett D. & Deborah Meares Millais, co-Trustees of the Millais Family Trust for a plat of a subdivision.....

15-19 b. Case No. Z-06-18-06: Request by Richard R. & Lucy J. Hastings, co-Trustees of The Old Rag Living Trust to rezone .....

15-19 c. Case No. Z-06-18-06: Request by Richard R. & Lucy J. Hastings, co-Trustees of The Old Rag Living Trust for an indefinite special use permit.....

4. Ratification of the recent Declaration of Emergency

5. Closed Session (Possible Personnel Item). Information/Correspondence

**6. Adjournment**